

Free recording in accordance
with California Government
Code Sections 6103 and 72383

RECORDING REQUESTED BY, AND
WHEN RECORDED, MAIL TO:

State of California,
Department of Housing and
Community Development
P. O. Box 952054
Sacramento, CA 94252-2054
Attn: EHAPCD Program
_____-EHAPCD-_____

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS SUBORDINATION AGREEMENT (the "Agreement") is dated as of _____, 20__, and is entered into by and among _____ (the "Borrower"), _____ (the "Lender") and the Department of Housing and Community Development, a public agency of the State of California (the "Department").

RECITALS

A. Borrower is the owner of the fee simple interest or a leasehold estate in that certain real property described in Exhibit A attached hereto and made a part hereof (the "Property").

B. Borrower has executed a deed of trust of even date, naming the Department as beneficiary, to secure a note in the face amount of \$_____, in favor of the Department, which deed of trust (the "EHAPCD Deed of Trust") is to be recorded concurrently herewith in the Official Records of _____ County (the "Official Records") as a lien against the Property.

C. Borrower and the Department have entered into a Regulatory Agreement of even date, which is to be recorded concurrently herewith in the Official Records as a lien against the Property (the "EHAPCD Regulatory Agreement"). The Department Regulatory Agreement and the EHAPCD Deed of Trust are collectively referred to as the "Department Documents."

D. Borrower has executed, or is about to execute a deed of trust and other security instruments and related documents in favor of Lender (collectively referred to herein as the "Lender Documents"), which Lender Documents have been recorded or are to be recorded concurrently herewith in the Official Records securing a note ("Lender Note") in the face amount of \$_____, in favor of Lender, payable with interest and upon the terms and conditions described therein; the Lender Note being evidence of a loan from Lender to Borrower subject to the provisions of the Lender Documents.

E. It is a condition precedent to obtaining said loan from Lender that the Lender Documents shall unconditionally be and remain at all times a lien or charge upon the Property prior and superior to the liens or charges of the Department Documents;

F. Lender is willing to make said loan provided the Lender Documents are liens or charges upon the Property prior and superior to the lien or charge of the Department Documents and provided that Department will specifically and unconditionally subordinate the liens or charges of the Department Documents to the liens or charges of the Lender Documents.

G. It is to the mutual benefit of the parties hereto that Lender make such loan to Borrower; and Department is willing that the Lender Documents shall, when recorded, constitute liens or charges upon the Property which are unconditionally prior and superior to the liens or charges of the Department Documents.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in order to induce Lender to make the loan above referred to, it is hereby declared, understood and agreed as follows:

1. The Lender Documents and any and all renewals, modifications or extensions thereof approved in writing by the Department shall unconditionally be and remain at all times liens or charges on the Property, prior and superior to the liens or charges of the Department Documents.

2. Lender would not make its loan above described without this Subordination Agreement;

3. This Subordination Agreement shall be the whole and only agreement with regard to the subordination of the liens or charges of the Department Documents to the liens or charges of the Lender Documents.

4. Department declares, agrees and acknowledges that:

a. Department consents to all provisions of the Lender Documents and Lender Note;

b. Department intentionally and unconditionally waives, relinquishes, and subordinates the lien or charge of the Department Documents, in favor of the lien or charge upon the Property of the Lender Documents in favor of Lender and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination, specific loans and advances are being and will be made and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination; and

d. An endorsement has been or will be placed upon the Department Note that the Department Documents have by this instrument been subordinated to the claims, liens or charges of the Lender Documents.

5. Lender hereby agrees, but only as a separate and independent covenant of the Lender and not as a condition to the continued effectiveness of the covenants and agreements of the Borrower and the Department as set forth herein, as follows:

a. Following a notice from the Lender to the Borrower that a default or breach exists under the terms of the Lender Documents and each of them, the Lender shall promptly (but in no event later than the following business day) send a copy of such notice to the Department and the Department shall have the right, but not the obligation, to cure the default as follows:

- (i) If the default is reasonably capable of being cured within thirty (30) days, as determined by the Lender in its sole discretion, the Department shall have such period to effect a cure prior to exercise of remedies by Lender under the Lender Documents, or such longer period of time as may be specified in the Lender Documents.
- (ii) If the default is such that it is not reasonably capable of being cured within thirty (30) days, as determined by the Lender in its sole discretion, or such longer period if so specified, and if the Department (a) initiates corrective action within said period, and (b) diligently, continually, and in good faith works to effect a cure as soon as possible, then the Department shall have such additional time as is determined by the Lender, in its sole discretion, to be reasonably necessary to cure the default prior to exercise of any remedies by Lender.

In no event shall Lender be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within ninety (90) days after the first notice of default is given, or such longer period of time as may be specified in the Lender Documents.

Nothing in this subparagraph (a) is intended to modify any covenant, term or condition contained in the Lender Documents, including, without limitation, the covenant against creating or recording any liens or encumbrances against the Property without the prior written approval of the Lender.

b. The provisions of this paragraph 5 are intended to supplement, and not to limit, waive, modify or replace, those provisions of law pertaining to notice and cure rights of junior lenders including, without limitation, those set forth in California Civil Code Sections 2924b and 2924c.

6. Lender agrees that upon Department's initiation of receivership and/or judicial foreclosure proceedings or foreclosure by private right of sale, Lender will not exercise its right to accelerate the amounts due under the Lender Documents if:

a. Department is the successful bidder at its own foreclosure sale, or if Department institutes a receivership and/or actions for specific performance; and

b. Borrower's obligations to Lender, including without limitation, the obligation to make timely payment of principal and interest and property taxes and to maintain insurance as required by the Lender are met despite such foreclosure, receivership or action for specific performance.

The provisions of this paragraph 6 are not intended to waive, limit, modify or replace Lender's remedies under the Lender Documents, including without limitation, Lender's right to accelerate the amounts due under the Lender Documents or the Lender Note by reason of nonpayment of principal or interest or property taxes or the failure to maintain insurance as required by the Lender.

7. This Agreement shall be binding on and inure to the benefit of the legal representatives, heirs, successors and assigns of the parties.

8. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

9. In the event that any party to this Agreement brings an action to interpret or enforce its rights under this Agreement, the prevailing party in such action shall be entitled to recover its costs and reasonable attorney's fees as awarded by the court in such action.

10. This Agreement may be signed by different parties hereto in counterparts with the same effect as if the signatures to each counterpart were upon a single instrument. All counterparts shall be deemed an original of this Agreement.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above and agree to be bound hereby:

DEPARTMENT:

THE DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT, a public agency of the State of California

By: _____
Carlos Patterson, Manager
Homeless Programs

BORROWER:

a California non-profit public benefit corporation

By: _____

Title: _____

LENDER:

By: _____

Title: _____

ALL SIGNATURES MUST BE ACKNOWLEDGED

EXHIBIT "A"

Legal Description of Property

IN WITNESS THEREOF, THE PARTIES HERETO HAVE EXECUTED THIS SUBORDINATION AGREEMENT.

DEPARTMENT

STATE OF CALIFORNIA)

)ss.

County of _____)

On _____, before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity on behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____ (Seal)

IN WITNESS THEREOF, THE PARTIES HERETO HAVE EXECUTED THIS SUBORDINATION AGREEMENT.

BORROWER

STATE OF CALIFORNIA)

)ss.

County of _____)

On _____, before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity on behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____ (Seal)

IN WITNESS THEREOF, THE PARTIES HERETO HAVE EXECUTED THIS SUBORDINATION AGREEMENT.

LENDER

STATE OF CALIFORNIA)

)ss.

County of _____)

On _____, before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity on behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____ (Seal) _____